

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2005**

Gulf Island Pond must take into consideration all prior total maximum daily load allocations, license limits and attainment of interim or final phosphorus limits as issued in prior total maximum daily loads or licenses so as not to create inequities in regard to attainment of prior phosphorus limits. The purpose of this subsection is to prevent penalizing dischargers who have attained early compliance with prior license limits or total maximum daily load allocations.

7. Any change in license limits based on a revised and approved total maximum daily load for phosphorus must comply with anti-backsliding requirements contained in state and federal law.

8. The Department of Environmental Protection is not obligated to make revisions to the model or existing approved total maximum daily load if funding is not provided for the additional work described in this section.

9. It is the intent of the Legislature that dischargers shall make continuous progress in actual effluent reductions towards reaching final allocations under the total maximum daily load allocations in existence on the effective date of this section or as revised under this section to March 15, 2010.

**Sec. 6. Operations study.** The Department of Environmental Protection shall supervise a study that evaluates the operation of the dam on Gulf Island Pond with regard to its impact on algae blooms. Hydrodynamic modeling of Gulf Island Pond and the dam must be included in the study as well as an analysis of the dam's operation to determine the feasibility and practicability of forecasting algae blooms and modifying the dam's operation to mitigate the likelihood of the occurrence of algae blooms.

The study must be voluntarily funded by those wastewater dischargers that choose to participate in the study. The study must be completed by September 2008. The operator of the dam on Gulf Island Pond shall cooperate with the department in the conduct of the study, including the submission of any relevant information upon request. If any person demonstrates that the information sought by the department in connection with the study is entitled to protection as a trade secret and so falls within a privilege against discovery and thus is not a public record pursuant to the Maine Revised Statutes, Title 1, section 402, subsection 3, paragraph B, the information must be submitted to the department but be treated by the department as confidential and not available to public inspection.

Dischargers who have reached their final total maximum daily load allocations as enforceable license limits may participate in the study, but may not be considered for additional control efforts until other

dischargers and the owner of the dam on Gulf Island Pond have either reached their final allocations or implemented final mitigation efforts. It is the Legislature's intent that if the study undertaken pursuant to this section results in mitigation efforts that include alterations to the dam's operation in lieu of discharger reductions, not including effluent reductions that are required under a license or other agreement, the dam owner or operator will not be required to implement the alterations unless the dischargers compensate the dam owner for such alterations.

**Sec. 7. Report to Joint Standing Committee on Natural Resources.** By February 1, 2006 and annually by that date until 2011, the Department of Environmental Protection shall submit a report on the status of activities undertaken pursuant to this Act to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The committee may report out legislation related to the annual report to the Legislature.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 20, 2005.

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## CHAPTER 410

### S.P. 72 - L.D. 219

#### An Act To Improve the Child Welfare Ombudsman Function

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 22 MRSA §4087-A, sub-§4,** as amended by PL 2003, c. 20, Pt. EEE, §1, is further amended to read:

**4. Services.** The program shall provide services directly or under contract. The first priority in the work of the program and any contract for ombudsman services must be case-specific advocacy services. In performing services under this section, the program, as it determines to be appropriate, may create and maintain records and case-specific reports. Any work on systems improvements or lobbying must be adjunctive to case-specific activities. The program may:

A. Provide information to the public about the services of the program through a comprehensive outreach program. The ombudsman shall provide information through a toll-free telephone number or numbers;

B. Answer inquiries, investigate and work toward resolution of complaints regarding the performance and services of the department and participate in conferences, meetings and studies that may improve the performance of the department;

C. Provide services to persons to assist them in protecting their rights;

D. Inform persons of the means of obtaining services from the department;

E. Provide information and referral services;

F. Analyze and provide opinions and recommendations to agencies, the Governor and the Legislature on state programs, rules, policies and laws;

G. Determine what types of complaints and inquiries will be accepted for action by the program and adopt policies and procedures regarding communication with persons making inquiries or complaints and the department;

H. Apply for and utilize grants, gifts and funds for the purpose of performing the duties of the program; and

I. Collect and analyze records and data relevant to the duties and activities of the program and make reports as required by law or determined to be appropriate.

**Sec. 2. 22 MRSA §4087-A, sub-§6**, as enacted by PL 2001, c. 439, Pt. X, §5, is repealed and the following enacted in its place:

**6. Confidentiality of records.** Information held by or records or case-specific reports maintained by the program are confidential. Disclosure may be made as allowed or required in accordance with the provisions of section 4008, subsections 2 and 3. Unlawful dissemination is subject to the provisions of section 4008, subsection 4.

See title page for effective date.

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## CHAPTER 411

S.P. 144 - L.D. 446

### An Act To Mandate Payment of Licensed Sign Language Interpreters for Driver Education Students

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 29-A MRSA §1352, sub-§1**, as affected by PL 1995, c. 65, Pt. A, §153 and amended by

Pt. B, §14 and affected by Pt. C, §15, is further amended to read:

**1. Motorcycle driver education required.**

Notwithstanding any other provision of law, a motorcycle or motor-driven cycle instruction permit, license or endorsement may not be issued to a person, unless that person presents a certificate of successful completion of a motorcycle driver education program and examination approved by the Secretary of State, except as provided in this subsection. ~~If a person is hearing impaired and a course is not readily available to that person, the Secretary of State may arrange for that person to complete a motorcycle driver education program using an electronic communications system. The program must meet the requirements of this section.~~

**Sec. 2. 29-A MRSA §1354, sub-§5-A**, as enacted by PL 1995, c. 505, §15 and affected by §22, is amended to read:

**5-A. License fees.** ~~Except as provided in section 1355, license~~ License fees must be paid to the Secretary of State and deposited into the Highway Fund. The following fees apply.

A. The fee for a driver education school license is \$125.

B. The fee for a driver education teacher or instructor license is \$80.

C. Each license issued pursuant to this section expires one year from the date of issuance. The fee for the renewal of a driver education school license is \$125. The fee for the renewal of a driver education teacher or instructor license is \$80.

D. A noncommercial driver education school that offers driver education for course credit and does not charge a fee for driver education is exempt from the license fees required in this subsection. A driver education teacher employed by and providing driver education only in a school exempt from license fees in accordance with this paragraph is also exempt from license fees required in this subsection.

~~This subsection takes effect January 1, 1997.~~

**Sec. 3. 29-A MRSA §1355**, as enacted by PL 1995, c. 505, §16 and affected by §22, is repealed.

**Sec. 4. 29-A MRSA §1357** is enacted to read:

**§1357. Communication services for deaf and hard-of-hearing persons**